

REMARKS/ARGUMENTS

The Examiner's Office Action of April 13, 2005 has been received and carefully considered. Claims 1-42 are pending in the application. Of these claims, claims 1-42 are rejected. By this amendment claims 1-3, 8-9, 11, 13-15, 18-20, 24-25, 27, and 29-30 are amended; claims 31-34 are canceled; and claims 43 and 44 are added. Accordingly, upon entry of these amendments, claims 1-30 and 35-44 will be pending in the application.

For the reasons discussed in detail below, Applicant submits that the application is in condition for allowance.

I. Objection to Drawings

The Examiner has objected to the drawings filed on April 13, 2004 and August 6, 2004. Applicant submits herewith replacement drawings for all Figures, i.e. Figures 1-5. The replacement drawings correct the objections noted on the PTO-Form-948 submitted with the Office Action. Applicant requests that the formal drawings be entered and made of record.

II. Objection to the Title of the Invention

The Examiner has objected to the title of the invention, i.e. "A Bacon Cooker," as being non-descriptive, and requires a new title that is clearly indicative of the invention to which the claims are directed. Applicant herein amends the title of the invention to "An Apparatus for Cooking Bacon and the Like"

III. Rejection of Claims under 35 U.S.C. 103(a) over Oda et al in view of Kubiadowicz

Claims 1-6, 12-14, 31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,122,833 to Oda et al. ("Oda") in view of U.S. Patent No. 4,214,515 in view of Kubiadowicz ("Kubiadowicz").

As herein amended, independent claim 1 recites, *inter alia*, a cooking rack removably suspended from said lid, said cooking rack comprising a plurality of radially extending vanes.

Applicant respectfully submits the combined teachings of Oda and Kubiadowicz fail to teach or suggest a microwavable cooking apparatus having cooking rack which is removably suspended from a lid and comprising and/or comprising a plurality of radially extending vanes. For this reason, Applicant respectfully submits that the rejection of claim as being obvious over Oda in view of Kubiadowicz must be reconsidered and withdrawn. Inasmuch as claims 2-6, and 12-14 are dependent on independent claim 1, the rejection of these claims should also be reconsidered and withdrawn.

Claim 3 is amended to more clearly describe the claimed invention. As amended, claim 3 is directed to, "The microwaveable apparatus of claim 2, wherein a plurality of tabs extend laterally from said bore wall into said bore." Applicant respectfully submits that this feature of the combined teachings of Oda or Kubiadowicz also fail to teach or suggest the apparatus of amended claim 2, wherein a plurality of tabs extend laterally from said bore wall into said bore. Accordingly, for this reason also, the rejection of claim 3 as being obvious over Oda in view of Kubiadowicz should be reconsidered and withdrawn.

Claim 13 is amended to more clearly describe the claimed invention. As amended, claim 13 is directed to "The microwaveable cooking apparatus of claim 2, wherein said cooking rack is removably suspended by a stem positioned within said bore." Applicant respectfully submits that the combined teachings of Oda and Kubiadowicz do not fairly teach or suggest the apparatus of claim 2, wherein the cooking rack is removeably suspended by a stem positioned within said bore. Accordingly, for this reason also, the rejection of claim 13 should be reconsidered and withdrawn.

Claim 14, as amended, is directed to "The microwaveable cooking apparatus of claim 13, wherein said cooking rack includes a stem positioned within said bore, and wherein said cooking rack is suspended to said lid by a plurality of radially extending vanes engaging said tabs." Applicant submits that the combined teachings of Oda and Kubiadowicz do not fairly teach or suggest this limitation. Accordingly, for this reason also, the rejection of claim 14 should be reconsidered and withdrawn.

As for claims 31 and 33, these claims are canceled by the present amendment rendering the rejection of these claims moot.

**IV. Rejection of Claims under 35 U.S.C. 103(a) over Oda
in view of Kubiatoiwicz, and Sarnoff et al. or Saxton.**

Claims 7-11, 35 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oda, in view of Kubioatowicz, as applied to claims 1-6, 12-14, 31 and 33 above, and further in view of U.S. Patent No. 5,310,981 to Sarnoff et al. ("Sarnoff") or U.S. Patent No. 2,265,269 to Saxton. Applicant notes that claims 7-11, 35 and 37 are dependent on independent claim 1. Thus, for the same reasons discussed above with respect to the rejection of claims 1-6, 12-14, 31 and 33, Applicant respects that Oda and Kubioatowicz are no longer applicable as references against claims 1-6, 12-14 or 31 and 33. Accordingly, the rejection claims 7-11, 35 and 37 should be reconsidered and withdrawn.

**V. Rejection of Claims under 35 U.S.C. 103(a) over Oda in view of Kubiatoiwicz, and
Freedman et al or Derby.**

Claims 32, 39 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oda, in view of Kubiatoiwicz, as applied to claims 1-6, 12-14, 31 and 33 above, and further in view of U.S. Patent No 43,398,077 to Freedman et al. ("Freedman") or U.S. Patent No. 4,495,392 to Derby ("Derby"). Applicant notes that claims 32, 39, and 41 are dependent on independent claim 1. Thus, for the same reasons discussed above with respect to the rejection of claims 1-6, 12-14, 31 and 33, Applicant respects that Oda and Kubioatowicz are no longer applicable as references against these claims. Accordingly, the rejection claims 39 and 41 should be reconsidered and withdrawn.

As for the rejection of claim 32, claim 32 is hereby canceled, thereby rendering the rejection of this claim moot.

**V. Rejection of Claims under 35 U.S.C. 103(a) over Hechler IV
in view of Freedman or Derby**

Claim 32 is further rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,211,502 to Hechler IV ("Hechler") in view of Freedman or Derby. As noted above, claim 32 canceled by the present amendment. Accordingly, the rejection of this claim is moot.

VI. Rejection of Claims under 35 U.S.C. 103(a) over Hechler IV in view of Oda

Claims 15, 18-30, 34, 36 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hechler IV in view of Oda. All of these claims are dependent, either directly or indirectly, from independent claim 15. In the Office Action, the Examiner contends that Hechler discloses each and every limitation of these claims, with the exception of the use of two containers with an inner container placed inside an outer container. According to the Examiner, "Oda shows that it is well known in the art of microwave cookers to use two containers (shells 13 and 15) for cooking food like strips of bacons so that grease can be collected in the outer container." Based on this, the Examiner contends that it would have been obvious to one of ordinary skill in the art to modify Hechler, IV to use an inner container within the outer container to allow grease to be collected for a better cooking result.

Contrary to the Examiner's apparent understanding, the purpose of the outer container of the claimed invention is not to collect grease, as the Examiner's suggest. Rather, in the claimed invention, the grease is collected by the inner container, not the outer container. As described in the specification at paragraphs [0032]- [0033] of the specification, the purpose of the outer container is to assist in preventing the bacon fat/water mixture from superheating.

Nevertheless, claim 15 as herein amended is directed to:

A microwavable cooking apparatus for cooking bacon and the like, comprising:
an outer container, said outer container having at least one container sidewall, an inner and outer surface, an open end and a laterally projecting rim at the container open end defining a rim undersurface;
an inner container, said inner container having at least one container sidewall, an inner and outer surface, and an open end and dimensioned to fit within said outer container;
a lid; and
a cooking rack removeably suspended from said lid, said cooking rack being comprised of a plurality of radially extending vanes and dimensioned to fit within said inner container.

(emphasis added).

Applicant respectfully submits that, in addition to the foregoing, the combined teachings of Hechler and Oda fail to teach a microwavable cooking apparatus for cooking bacon and the like, comprising, *inter alia*, a cooking rack removeably suspended from said lid. This feature offers significant advantages over the prior art. For example, having the cooking rack removeably suspended from the lid (1) facilitates the ease by which bacon is loaded onto the cooking rack, (2) allows for easier and better cleaning of the lid and the

cooking rack, and (3) allows for inspection of the contents without having to handle the cooking rack.

Hechler discloses only a unitary cover unit to which a plurality of spaced arms over which bacon is hung. See Hechler, Figures 2-3; Col. 2, lines 61; and Col. 4, lines 18-23. The spaced arms of Hechler are integral with the lid and, thus, are not removeably suspended therefrom. In effect, Hechler teaches away from the claimed invention. With respect to Oda, Applicant submits that its teaching are even further removed, as Oda discloses absolutely no means for suspending the bacon from the lid, either directly or by means of a removeably suspended cooking rack. See Oda, Figures 1-6.

As the combined teachings of Hechler and Oda fail to teach each and every element of the claimed invention, Applicant submits that a *prima facie* case of obviousness has not been established. Accordingly, the rejection of independent claims 15 under 35 U.S.C. 103(a) as being obvious over Hechler in view of Oda should be reconsidered and withdrawn. Inasmuch as 18-30, 34, 36 and 38 depend from claim 15, Applicant submits that the rejection of these claims should also be withdrawn.

Claim 19 is directed to “The microwaveable cooking apparatus of claim 15, wherein a plurality of tabs extend laterally from said bore wall into said bore.” While Hechler discloses a bore, the combined teachings of Hechler and Oda do not teach or suggest a microwaveable cooking apparatus wherein a plurality of tabs extend laterally from said bore wall into said bore. Thus, for this reason too, the rejection of claim 19 should be reconsidered and withdrawn.

Claim 29 is directed to “The microwaveable cooking apparatus of claim 18, wherein said cooking rack is removably suspended from a stem position within said bore. Applicant submits that combined teachings of Hechler and Oda fails to teach or suggest this limitation. The Examiner’s Office Action provides no showing to the contrary. Accordingly, for this reason too, the rejection of claim 29 should be reconsidered and withdrawn.

Claim 30 is directed to “The microwaveable cooking apparatus of claim 19, wherein said cooking rack includes a stem positioned within said bore, said stem comprising a plurality of radially extending vanes, and wherein said cooking rack is suspended to said lid by the plurality of radially extending vanes of said stem engaging said tabs.” Applicant submits that the combined teachings of Hechler and Oda fail to teach or suggest this

limitation. The Examiner's Office Action provides no showing to the contrary. Accordingly, for this reason too, the rejection of claim 30 should be reconsidered and withdrawn.

**VII. Rejection of Claims 16, 17, 40 and 42 over Hechler
in view of Oda, and Freedman or Derby**

Claim 16, 17, 40 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hechler in view of Oda as applied to claims 15, 18-30, 34-36 and 38 above, and further in view of Freedman or Derby.

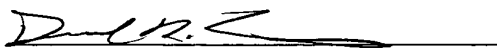
Claims 16, 17, 40 and 42 depend either directly or indirectly from claim 15. Applicant respectfully submits that the combined teachings of Hechler, Oda, Freedman and/or Derby also fail to teach each and every limitation of claim 15, particularly the limitation of a cooking rack removably suspended from the lid. Accordingly, for the same reasons discussed above with respect to claim 15, Applicant respectfully submits that the rejection of claim 16, 17, 40 and 42 as being obvious over Hechler in view of Oda, and Freedman or Derby, should be reconsidered and withdrawn.

VII. Conclusion

Having responded to all of the issues raised in the Office Action, Applicant believes that the pending claims are now in condition for allowance. An early Notice of Allowance is requested.

The Examiner is invited to contact the undersigned should he believe that there are any outstanding issues to be resolved.

Respectfully submitted,


Donald R. Studebaker
Registration No. 32,815

NIXON PEABODY LLP
Suite 900, 401 9th Street, N.W.
Washington, D.C. 20004-2128
(202) 585-8000
(202) 585-8000 Fax